

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE: ) CHAPTER 11  
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GALIL TAWFIK, ) CASE NO. 11-53590 - MHM  
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Debtor. )  
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IN RE: ) CHAPTER 11  
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GAMAL G. TAWFIK, ) CASE NO. 11-53598 - MHM  
 )  
Debtor. )

**ORDER DEFERRING BB&T RULE 2004 EXAMINATION**

Each of these cases commenced February 3, 2011. The following day, Branch Banking & Trust Company (“BB&T”) filed in each case a motion for a Rule 2004 examination of each Debtor. Five days later, February 9, 2011, BB&T filed in each of these cases an amended motion for a Rule 2004 examination of each of these debtors (Doc. No. 12 in each case) (the “2004 Motion”). The allegations and prayers in each 2004 Motion are essentially the same. Each of the debtors filed a response to the 2004 Motion February 10, 2011 (Doc. No. 14 in each case), which are likewise essentially the same. Although these two cases have not been administratively or substantively consolidated, because the allegations and arguments in the 2004 Motion and responses in each case are the same, the two motions will be considered together.<sup>1</sup>

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<sup>1</sup> Both BB&T and the court are familiar with Debtors’ business background as a result of proceedings in an affiliated group of Chapter 13 cases.

The 2004 Motions were filed before the §341(a) meeting of creditors had been scheduled and noticed by the Clerk. BB&T seeks production of documents by February 15, 2011, and a deposition of each debtor February 23, 2011. Debtors do not oppose the Rule 2004 examination, but they do assert the examination on the timetable proposed by BB&T is unreasonable. Debtors are still collecting data and documents to file Schedules<sup>2</sup> and to prepare to testify at the §341(a) meeting of creditors, scheduled by the U.S. Trustee for March 3, 2011.

In 23 years on the bankruptcy bench in this district, this is the first time the undersigned has been asked to consider a creditor's motion for a Rule 2004 examination before that creditor availed itself of information provided by the debtor's Schedules and testimony at the §341(a) meeting of creditors. A 2004 examination serves as a continuation of the §341 meeting, which is moderated by the U.S. Trustee, when one or more creditors seek information that goes beyond the scope of a §341, given the flexible constraints of the U.S. Trustee's 341 calendar. Conducting a 2004 examination this early in the case would be duplicative and would needlessly interfere with Debtors' activities to compile information for the statutorily required Schedules and the §341(a) meeting, which benefit all creditors. A Rule 2004 examination now would not obviate the need for the §341(a) meeting, as Debtors have other creditors (although BB&T is the largest), and the U.S. Trustee has independent statutory duties that require it to conduct the §341(a)

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<sup>2</sup> Section 521(a) and Bankruptcy Rule 1007(b) require a debtor to file schedules of assets and liabilities, a schedule of current income and expenditures, a schedule of executory contracts and unexpired leases, and a statement of financial affairs (the "Schedules").

meeting. BB&T has set forth no facts to support any urgency for a Rule 2004 examination so early in the case apart from its status as the largest creditor. Accordingly, it is hereby

**ORDERED** that BB&T's 2004 Motion is *granted*, but the scheduling of the 2004 exams is *deferred* until after the conclusion of the §341(a) meeting of creditors. BB&T may renew its motion for scheduling following conclusion of the §341 meeting.

**The Clerk, U.S. Bankruptcy Court, is directed to serve** a copy of this order upon Debtors, Debtors' attorney, the U.S. Trustee, and all creditors and parties in interest.

IT IS SO ORDERED, this the 24<sup>th</sup> day of February, 2011.

  
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MARGARET H. MURPHY  
UNITED STATES BANKRUPTCY JUDGE